

REMARKS/ARGUMENTS

The Examiner is thanked for the performance of a thorough search. By this amendment, Claim 1 has been amended. Dependent Claims 12-19 and independent Claim 20 have been added. Hence, Claims 1-20 are pending in the application. The amendments or additions to the claims as indicated herein do not add any new matter to this application. Each issue raised in the Office Action mailed March 31, 2005, is addressed hereinafter.

SUMMARY OF THE REJECTIONS/OBJECTIONS**I. Issues Not Relating to the Prior Art**

Claims 1-11 were rejected under 35 U.S.C. §101, as being directed to nonstatutory subject matter. Statutory subject matter requires that (1) it must be in the “useful arts” U.S. Const., Art. I, § 8, cl. 8, as defined by Congress in the four categories of “process, machine, manufacture, or composition of matter,” and (2) it must not fall within one of the exceptions for “laws of nature, physical phenomena and abstract ideas.”

State St. Bank & Trust Co. v. Signature Financial Group, Inc., 149 F. 3d 1368, 1373, 47 USPQ2d, 1596, 1600-01 (Fed. Cir. 1998), states that transformation of data by a machine is statutory subject matter provided the claims recite a “practical application, which produce[s] a useful, concrete and tangible result.”

Specifically, the Office Action states, “the Office’s interpretation of the claim is that it does not *expressly or implicitly* require performance of any of the steps by a machine such as a general-purpose computer. Structure will not be read into the claims for the purpose of the statutory analysis even though the steps might be capable of being performed by a machine” page 3, 3rd paragraph (emphasis added).

The claims, in its original form and as currently amended, do expressly require performance of steps by a machine. Claim 1 states, without amendment, that the invention is

a “method comprising the computer-implemented steps of...” claim 1, line 1. Furthermore, Claim 1 has been amended to read “prior to executing a shell script, one or more processors of a computer system performing...” Claim 1, line 10. The claim *expressly* requires the performance of the steps by a machine such as a general-purpose computer and thus would fall under the statutory subject matter as held in *State Street Bank*.

Therefore, it is respectfully submitted that the rejection of Claim 1, including the rejection of any of its dependant claims be withdrawn.

II. Issues Relating to Prior Art

Claims 1-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by “CCsh™, The Bourne Shell Compiler”, Comeau Computing.

A claim is anticipated under § 102 only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit that every element of each claim is not expressly or inherently taught by the cited reference. Therefore, the Office Action fails to present a *prima facie* case of unpatentability, and the rejection of Claims 1- 11 under §102(b) is improper.

Claims 1-11 are allowable over the cited reference because each of Claims 1-11 recite at least one element that is not disclosed, taught, or suggested by the cited reference.

Specifically, Claim 1, as amended, refers to a semantic check that includes rules that, if not followed in the shell script, *do not result in errors once the script is executed*. These rules are distinct from the programming language in which the shell was written and some of these rules are included as additional dependent claims 12-19.

The cited Comeau reference is largely silent with respect to the specifics of how the semantic verifier in CCsh works and what criteria it examines. The reference does mention that its semantic check is "...useful for finding errors that normally would not be detected *until the shell actually executed the line of code* in question." Page 2, 8th paragraph (emphasis added). From this passage, it can be clearly inferred that the semantic checking within CCsh searches for errors that *do* result in errors that would be automatically detected upon execution of the code. Semantic error that would be automatically detected upon execution of code are errors that violate the semantics of the language in which the code is written. Thus, by this reference nothing is taught or suggested about semantic guidelines that indicate rules that are not imposed by the language of the code. Consequently, not all limitations made within Claim 1 are taught, disclosed or suggested by the reference.

Claims 2-19 are dependent claims, each of which depends (directly or indirectly) on the claim discussed above. Each of Claims 2-19 is therefore allowable for the reasons given above for the claim on which it depends. Additional claim 20 is the computer-readable medium form of Claim 1 and should also be allowed.

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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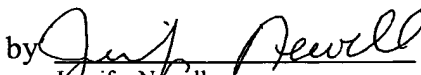
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on June 17, 2005

by 
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